

STATE OF OKLAHOMA

2nd Session of the 55th Legislature (2016)

HOUSE BILL 3030

By: Jordan

AS INTRODUCED

An Act relating to marriage; amending 43 O.S. 2011, Section 121, as last amended by Section 1, Chapter 334, O.S.L. 2012 (43 O.S. Supp. 2015, Section 121), which relates to alimony; permitting alimony pursuant to specified factors; directing court to consider list of factors in awarding support alimony; providing for codification; and providing an effective date.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. AMENDATORY 43 O.S. 2011, Section 121, as last amended by Section 1, Chapter 334, O.S.L. 2012 (43 O.S. Supp. 2015, Section 121), is amended to read as follows:

Section 121. A. When a dissolution of marriage is granted, the decree shall restore:

1. To the wife her maiden or former name, if her name was changed as a result of the marriage and if she so desires;

2. To the husband his former name, if his name was changed as a result of the marriage and if he so desires.

B. The court shall enter its decree confirming in each spouse the property owned by him or her before marriage and the undisposed-

1 of property acquired after marriage by him or her in his or her own
2 right. Either spouse may be allowed such alimony out of real and
3 personal property of the other as the court shall think reasonable
4 pursuant to the factors listed in Section 2 of this act, having due
5 regard to the value of such property at the time of the dissolution
6 of marriage. Alimony may be allowed from real or personal property,
7 or both, or in the form of money judgment, payable either in gross
8 or in installments, as the court may deem just and equitable. As to
9 such property, whether real or personal, which has been acquired by
10 the parties jointly during their marriage, whether the title thereto
11 be in either or both of said parties, the court shall, subject to a
12 valid antenuptial contract in writing, make such division between
13 the parties as may appear just and reasonable, by a division of the
14 property in kind, or by setting the same apart to one of the
15 parties, and requiring the other thereof to be paid such sum as may
16 be just and proper to effect a fair and just division thereof. The
17 court may set apart a portion of the separate estate of a spouse to
18 the other spouse for the support of the children of the marriage
19 where custody resides with that spouse.

20 C. A servicemember's portion of Special Monthly Compensation
21 (SMC) awarded by or from the United States Department of Veterans
22 Affairs for service-connected loss or loss of use of specific organs
23 or extremities shall be separate property, not divisible as a
24 marital asset nor as community property. For purposes of

1 identifying SMC, it is the sole responsibility of the servicemember
2 to prove with competent evidence what amount of his or her
3 disability compensation is SMC.

4 D. A servicemember's portion of Combat-Related Special
5 Compensation (CRSC) shall be separate property, not divisible as a
6 marital asset nor as community property, if a specific dollar amount
7 of CRSC can be proved by the servicemember as compensation for
8 combat-related loss of limb or loss of bodily function and the CRSC
9 award was applied for and established prior to the date of the
10 filing of the dissolution of marriage action.

11 E. Pursuant to the federal Uniformed Services Former Spouses'
12 Protection Act, 10 U.S.C., Section 1408, a court may treat
13 disposable retired or retainer pay payable to a military member
14 either as property solely of the member or as property of the member
15 and the spouse of the member. If a state court determines that the
16 disposable retired or retainer pay of a military member is the sole
17 and separate property of the military member, the court shall submit
18 clear and concise written findings of such determination to be
19 included in the decree or final order. If a state court determines
20 that the disposable retired or retainer pay of a military member is
21 marital property, the court shall submit clear and concise written
22 findings of such determination to be included in the decree or final
23 order and shall award an amount consistent with the rank, pay grade,
24 and time of service of the member at the date of the filing of the

1 petition, unless the court finds a more equitable date due to the
2 economic separation of the parties.

3 F. Unless otherwise agreed to by the parties, any division of
4 an active duty military member's retirement or retainer pay shall
5 use the following language:

6 "The former spouse is awarded a percentage of the member's
7 disposable military retired pay, to be computed by multiplying fifty
8 percent (50%) times a fraction, the numerator of which is ____x____
9 months of marriage during the member's creditable military service,
10 divided by the member's total number of months of creditable
11 military service."

12 G. In the case of a member's retiring from reserve duty, unless
13 otherwise agreed by the parties, any division of a reservist's
14 retirement or retainer pay shall use the following language:

15 "The former spouse is awarded a percentage of the member's
16 disposable military retired pay, to be computed by multiplying fifty
17 percent (50%) times a fraction, the numerator of which is
18 __X__ reserve retirement points earned during the period of the
19 marriage, divided by the member's total number of reserve retirement
20 points earned."

21 SECTION 2. NEW LAW A new section of law to be codified
22 in the Oklahoma Statutes as Section 121.1 of Title 43, unless there
23 is created a duplication in numbering, reads as follows:
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1 In awarding support alimony, the court shall consider the
2 following factors:

- 3 1. Whether there is a legitimate need for support alimony;
- 4 2. The ability of the other party to pay support alimony;
- 5 3. The age and health of each party;
- 6 4. The education and earning capacity of each party;
- 7 5. The lifestyle of the parties before separation;
- 8 6. The length of the marriage;
- 9 7. The income-producing property received by either party in the
10 divorce; and
- 11 8. The budget of each party.

12 SECTION 3. This act shall become effective November 1, 2016.

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